

2003 DRAFTING REQUEST

Bill

Received: **02/06/2003**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Lothian (608) 266-1190**

By/Representing: **Royce**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters: **mshovers**

Subject: **State Finance - miscellaneous
Tax Credits - individual income**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Lothian@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Funding of budget stabilization fund

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	rchampag 03/05/2003	kgilfoy 03/05/2003	pgreensl 03/06/2003		amentkow 03/06/2003		State
/2	rchampag 03/21/2003	kgilfoy 03/21/2003	rschluet 03/24/2003		lemery 03/24/2003	mbarman 03/25/2003	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

→ At
Intro.

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1957/2
Jacket
for
Assembly
per
PAC

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/1	rchampag 03/05/2003	kgilfoy 03/05/2003	pgreensl 03/06/2003		amentkow 03/06/2003		

FE Sent For:

12-3/21
pmg

3-21-3

2003 DRAFTING REQUEST**Bill**Received: **02/06/2003**Received By: **rchampag**Wanted: **As time permits**

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Funding of budget stabilization fund

Instructions:

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/?	rchampag		3/8 P8	3/8 P8/cph			State

FE Sent For:

<END>

Champagne, Rick

From: DeBow, Royce
Sent: Thursday, February 06, 2003 9:35 AM
To: Champagne, Rick
Subject: FW: Drafting "Rainy Day Fund" legislation

Rick,

NEXT STEP - explore the possibility of drafting legislation that does not require a constitutional amendment, yet achieves the following . . .

- 1) requires specific percentage of estimated surplus to be transferred to Budget Stabilization Fund (Fund) at regular intervals (whatever intervals make sense based on timing of revenue estimates, etc. I am thinking no less than twice per biennium. I don't know what the percentage of surplus should be, but I would like it based on the +/- error factor of projected revenues that has been seen over the years. In other words, how close do they come, on average, year in and year out with regard to revenue estimates. Then, subtract whatever that number is from 100 and perhaps use 80% of the remaining as what would be transferred into the Fund. So, if the worst the
- 2) maintains, or possibly increases percentage of votes required in both houses to appropriate monies from Fund. I believe it's currently two thirds, but it should probably be higher.
- 3) Caps balance of Fund at 11% of GPR.
- 4) Mandates that withdrawals from Fund can not reduce Fund to less than 3% of GPR of the year in which the withdrawal is made and that the funds may only be used to provide revenue stability at a time in which economic factors create a shortfall.
- 5) provisions apply to every budget in perpetuity rather than just a specified budget.
- 6) a future proposed statute altering any part of this statute must be approved by same percentage of votes as specified in 2) above.
- 7) Either has same passive review by JCF or eliminates their participation altogether (preferable) and mandates automatic transfer of surplus
- 8) WHAT ELSE? I'm sure I forgot 40 or 50 things

Regards,

Royce K. DeBow
Legislative Aide
Office of Thomas A. Lothian
Wisconsin State Representative
32nd District

Per Royce:

- 100% to BSF
- Cap at 11% GPR spending
- Tax Credit for above 8%, but only when credit amount available = 100 million
- Rule of procedure:
 - Can't pass a bill dropping balance below 3% APR
 - $\frac{2}{3}$ for other expenditures from BSF
- Narrow purpose of BSF



(D-Nate)
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1957/1

RAC&MES: *King*

Thursday

2003 BILL

- Gen. Cat.*
- 1 AN ACT *relating to*; relating to: moneys deposited in the budget stabilization fund, *and*
2 *an individual nonrefundable* creating a budget stabilization fund *income* tax credit, *program* and making an
3 appropriation.

Analysis by the Legislative Reference Bureau

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Under current law, there exists a budget stabilization fund that consists of certain moneys transferred from the general fund. Annually, the secretary of administration (secretary) must calculate the difference between the amount of tax revenues projected to be deposited in the general fund (projected tax receipts) and the amount of tax revenues actually deposited in the general fund during the preceding fiscal year (actual tax receipts). If the projected tax receipts are less than the actual tax receipts, the secretary must transfer from the general fund to the budget stabilization fund an amount equal to 50% of the difference between the projected tax receipts and the actual tax receipts. This annual calculation and transfer continues until the balance of the budget stabilization fund is 5% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts.

5+5+ This bill requires ~~that~~ 100% of the difference between the projected tax receipts and the actual tax receipts ~~may~~ be transferred to the budget stabilization and that the annual calculation and transfer continues until the balance of the budget stabilization fund is 11% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts.

BILL

In addition, the bill creates an individual income tax budget stabilization fund tax credit, which may be claimed by an individual taxpayer who is eligible for, and claims, the school property tax rent credit (SPTRC). The credit is nonrefundable, meaning that if the amount of the credit exceeds the taxpayer's tax liability, no check is issued in the amount of the difference.

The credit is available only in taxable years in which the amount in the budget stabilization fund equals 8% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts, plus \$100,000,000. If the secretary certifies that the amount in the fund is at least equal to that amount, the Department of Revenue determines the amount of the credit that may be claimed in that taxable year. The credit amount is determined by first calculating a percentage by dividing the amount certified by the sum of all projected claims under the SPTRC, and then by multiplying the claimant's claim under the SPTRC by the resulting percentage. The credit amount is then modified so that the amount in the fund greater than 8% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts, is expended as fully as possible and by rounding down the credit amount to the nearest whole number.

In addition, the bill specifies that moneys in the budget stabilization fund may be used only for the purpose of providing state revenue stability during periods of below-normal economic activity when actual tax receipts are lower than projected tax receipts and for the purpose of the budget stabilization fund tax credit ~~program~~.

Finally, the bill prohibits the legislature from passing any bill that would authorize the expenditure of moneys from the budget stabilization fund so as to reduce the balance of the budget stabilization fund below 3% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts, and requires that at least two-thirds of the members of each house of the legislature approve any other bill authorizing any expenditure of moneys from the budget stabilization fund.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.39 of the statutes is created to read:

2 **13.39 Expenditure of moneys from the budget stabilization fund. (1)**

3 Except as provided ~~provided~~ in sub. (2), at least two-thirds of the members of each
4 house of the legislature must approve any bill authorizing the expenditure of moneys
5 from the budget stabilization fund.

BILL

(2) The legislature may not approve any bill authorizing the expenditure of moneys from the budget stabilization fund if the expenditure of moneys would cause the balance of the budget stabilization fund to fall below 3% of the estimated expenditures from the general fund during the fiscal year, as reported in the summary, as defined in s. 16.518 (1).

SECTION 2. 16.518 (title) of the statutes is amended to read:

16.518 (title) Transfers to the budget stabilization fund and the cash building projects fund.

History: 2001 a. 16.

SECTION 3. 16.518 (3) (a) of the statutes is amended to read:

16.518 (3) (a) Subject to par. (b), if the amount of moneys projected to be deposited in the general fund during the fiscal year that are designated as "Taxes" in the summary is less than the amount of such moneys actually deposited in the general fund during the fiscal year, the secretary shall annually transfer from the general fund to the budget stabilization fund ~~50%~~ 100% of the amount calculated under sub. (2).

History: 2001 a. 16.

SECTION 4. 16.518 (3) (b) 1. of the statutes is amended to read:

16.518 (3) (b) 1. If the balance of the budget stabilization fund on June 30 of the fiscal year is at least equal to ~~5%~~ 11% of the estimated expenditures from the general fund during the fiscal year, as reported in the summary, the secretary may not make the transfer under par. (a).

History: 2001 a. 16.

SECTION 5. 20.875 (2) (r) of the statutes is created to read:

20.875 (2) (r) *Budget stabilization fund transfer for tax relief. A sum sufficient under s. 71.07 (7m) (d) to fund the tax credit*
equal to the amount certified to the secretary of administration under s. 71.07 (7m)

BILL

SECTION 6

1 SECTION 6. 25.60 of the statutes is amended to read:

2 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
3 trust fund designated as the budget stabilization fund, consisting of moneys
4 transferred to the fund from the general fund under s. 16.518 (3). Moneys in the
5 budget stabilization fund may be used only for the purpose of providing state revenue
6 stability during periods of below-normal economic activity when actual state
7 revenues are lower than estimated revenues as provided in the summary, as defined
8 in s. 16.518 (1), and for the purpose of the tax credit ~~program~~ under s. 71.07 (7m).

History: 1985 a. 120; 2001 a. 16.

9 SECTION 7. 71.07 (7m) of the statutes is created to read:

10 71.07 (7m) BUDGET STABILIZATION FUND TAX CREDIT. (a) *Definitions.* In this
11 subsection:

12 1. "Claimant" means an individual taxpayer who is eligible for, and claims, the
13 credit under sub. (9).

14 2. "Credit percentage" means an amount calculated by the department by
15 dividing the amount certified under par. (c) 3. by the sum of all projected claims under
16 the credit under sub. (9) in the year to which the claim relates.

17 ~~3. "Department" means the department of revenue.~~

18 (b) *Filing claims.* Subject to the limitations and conditions provided in this
19 subsection, a claimant may claim as a credit against the tax imposed under s. 71.02,
20 up to the amount of those taxes, an amount determined by the department under par.
21 (c).

22 (c) *Determination of credit amount.* 1. Not later than September 1 each year,
23 the secretary of administration shall certify to the secretary of ^{revenue} ~~the department~~ the
24 amount that is in the budget stabilization fund under s. 25.60 that exceeds 8% of the

BILL

1 estimated expenditures from the general fund during the fiscal year, as reported in
2 the summary, as defined in s. 16.518 (1).

3 2. If the amount of the certification is \$100,000,000 or less, the amount that
4 may be claimed in that taxable year is zero.

5 3. If the amount of the certification exceeds \$100,000,000, the department shall
6 determine the credit percentage for that taxable year. The credit amount shall be
7 determined by multiplying the amount that a claimant claimed under the credit
8 under sub. (9) by the credit percentage, but shall be modified ~~such~~^{AD} that the certified
9 amount in the budget stabilization fund greater than 8% of the estimated
10 expenditures from the general fund during the fiscal year, as reported in the
11 summary, as defined in s. 16.518 (1), is expended as fully as possible and that the
12 credit amount for each claimant is rounded down to the nearest whole dollar amount.

13 (d) *Certification of amounts claimed.* No^e later than August 15 of the year
14 following the year in which the department determines a credit amount under par.

15 (c) 3., the department shall determine the amount of revenue lost because of credits
16 claimed in the taxable year to which that credit amount relates. The amount of
17 revenue lost shall be certified to the secretary of administration.

18 (e) *Limitations and conditions.* 1. No credit may be allowed under this
19 subsection unless it is claimed within the time period under s. 71.75 (2).[✓]

20 2. Part-year residents and nonresidents of this state are not eligible for the
21 credit under this subsection.

22 (f) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
23 under that subsection, applies to the credit under this subsection.

24 **SECTION 8.** 71.10 (4) (dt) of the statutes is created to read:

25 71.10 (4) (dt) Budget stabilization fund ^{tax} credit under s. 71.07 (7m).[✓]

BILL**SECTION 9****SECTION 9. Initial applicability.**

(1) BUDGET STABILIZATION FUND TAX CREDIT. The treatment of sections 71.07 (7m) ✓
and 71.10 (4) (dt) ✓ of the statutes first applies to taxable years beginning on January
1 of the year in which this subsection takes effect, except that if this subsection takes
effect after July 31 the treatment of sections 71.07 (7m) ✓ and 71.10 (4) (dt) ✓ of the
statutes first applies to taxable years beginning on January 1 of the year following
the year in which this subsection takes effect.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1957/1dn

RAC: *fy...*

King

Representative Lothian:

Please note that s. 13.39 creates a rule of procedure under article IV, section 8, of the constitution. The Wisconsin supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. (See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and this provision does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

I

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1957/1dn
RAC:kmg:pg

March 5, 2003

Representative Lothian:

Please note that s. 13.39 creates a rule of procedure under article IV, section 8, of the constitution. The Wisconsin Supreme Court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. *See State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and this provision does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1957/12

RAC&MES:kmg:pg

Stan
2003 BILL

RMP

Print w/line #15

Sen. Cat

AN ACT *to amend* 16.518 (title), 16.518 (3) (a), 16.518 (3) (b) 1. and 25.60; and
to create 13.39, 20.875 (2) (r), 71.07 (7m) and 71.10 (4) (dt) of the statutes;
relating to: moneys deposited in the budget stabilization fund, creating an
individual nonrefundable budget stabilization fund income tax credit, and
making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, there exists a budget stabilization fund that consists of certain moneys transferred from the general fund. Annually, the secretary of administration (secretary) must calculate the difference between the amount of tax revenues projected to be deposited in the general fund (projected tax receipts) and the amount of tax revenues actually deposited in the general fund during the preceding fiscal year (actual tax receipts). If the projected tax receipts are less than the actual tax receipts, the secretary must transfer from the general fund to the budget stabilization fund an amount equal to 50% of the difference between the projected tax receipts and the actual tax receipts. This annual calculation and transfer continues until the balance of the budget stabilization fund is 5% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts.

This bill requires that 100% of the difference between the projected tax receipts and the actual tax receipts be transferred to the budget stabilization and that the annual calculation and transfer continue until the balance of the budget

BILL

stabilization fund is 11% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts.

In addition, the bill creates an individual income tax budget stabilization fund tax credit, which may be claimed by an individual taxpayer who is eligible for, and claims, the school property tax rent credit (SPTRC). The credit is nonrefundable, meaning that if the amount of the credit exceeds the taxpayer's tax liability no check is issued in the amount of the difference.

The credit is available only in taxable years in which the amount in the budget stabilization fund equals 8% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts, plus \$100,000,000. If the secretary certifies that the amount in the fund is at least equal to that amount, the Department of Revenue determines the amount of the credit that may be claimed in that taxable year. The credit amount is determined by first calculating a percentage by dividing the amount certified by the sum of all projected claims under the SPTRC, and then by multiplying the claimant's claim under the SPTRC by the resulting percentage. The credit amount is then modified so that the amount in the fund greater than 8% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts, is expended as fully as possible and by rounding down the credit amount to the nearest whole number.

In addition, the bill specifies that moneys in the budget stabilization fund may be used only for the purpose of providing state revenue stability during periods of ~~below-normal~~ economic activity when actual tax receipts are lower than projected tax receipts and for the purpose of the budget stabilization fund income tax credit.

Finally, the bill prohibits the legislature from passing any bill that would authorize the expenditure of moneys from the budget stabilization fund so as to reduce the balance of the budget stabilization fund below 3% of the estimated expenditures from the general fund during the fiscal year, as projected in the biennial budget act or acts, and requires that at least two-thirds of the members of each house of the legislature approve any other bill authorizing any expenditure of moneys from the budget stabilization fund.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 13.39 of the statutes is created to read:

13.39 Expenditure of moneys from the budget stabilization fund. (1)

Except as provided in sub. (2), at least two-thirds of the members of each house of

(, for the purpose of paying principal and interest on public debt,

BILL

the legislature must approve any bill authorizing the expenditure of moneys from the budget stabilization fund.

(2) The legislature may not approve any bill authorizing the expenditure of moneys from the budget stabilization fund if the expenditure of moneys would cause the balance of the budget stabilization fund to fall below 3% of the estimated expenditures from the general fund during the fiscal year, as reported in the summary, as defined in s. 16.518 (1).

SECTION 2. 16.518 (title) of the statutes is amended to read:

16.518 (title) Transfers to the budget stabilization fund and the cash building projects fund.

SECTION 3. 16.518 (3) (a) of the statutes is amended to read:

16.518 (3) (a) Subject to par. (b), if the amount of moneys projected to be deposited in the general fund during the fiscal year that are designated as “Taxes” in the summary is less than the amount of such moneys actually deposited in the general fund during the fiscal year, the secretary shall annually transfer from the general fund to the budget stabilization fund 50% 100% of the amount calculated under sub. (2).

SECTION 4. 16.518 (3) (b) 1. of the statutes is amended to read:

16.518 (3) (b) 1. If the balance of the budget stabilization fund on June 30 of the fiscal year is at least equal to 5% 11% of the estimated expenditures from the general fund during the fiscal year, as reported in the summary, the secretary may not make the transfer under par. (a).

SECTION 5. 20.875 (2) (r) of the statutes is created to read:

BILL

20.875 (2) (r) *Budget stabilization fund transfer for tax relief.* A sum sufficient equal to the amount certified to the secretary of administration under s. 71.07 (7m) (d), to fund the tax credit under s. 71.07 (7m).

SECTION 6. 25.60 of the statutes is amended to read:

25.60 Budget stabilization fund. There is created a separate nonlapsible trust fund designated as the budget stabilization fund, consisting of moneys transferred to the fund from the general fund under s. 16.518 (3). Moneys in the budget stabilization fund may be used only for the purpose of providing state revenue stability during periods of below-normal economic activity when actual state revenues are lower than estimated revenues as provided in the summary, as defined in s. 16.518 (1), and for the purpose of the tax credit under s. 71.07 (7m).

SECTION 7. 71.07 (7m) of the statutes is created to read:

71.07 (7m) BUDGET STABILIZATION FUND TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means an individual taxpayer who is eligible for, and claims, the credit under sub. (9).
2. "Credit percentage" means an amount calculated by the department by dividing the amount certified under par. (c) ~~2.~~ ¹ by the sum of all projected claims under the credit under sub. (9) in the year to which the claim relates.

(b) *Filing claims.* Subject to the limitations and conditions provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of those taxes, an amount determined by the department under par. (c).

(c) *Determination of credit amount.* 1. Not later than September 1 each year, the secretary of administration shall certify to the secretary of revenue the amount

for the purpose of paying principal and
interest on public debt contracted under subchs. I and
IV of ch. 18.

BILL

that is in the budget stabilization fund under s. 25.60 that exceeds 8% of the estimated expenditures from the general fund during the fiscal year, as reported in the summary, as defined in s. 16.518 (1).

2. If the amount of the certification is \$100,000,000 or less, the amount that may be claimed in that taxable year is zero.

3. If the amount of the certification exceeds \$100,000,000, the department shall determine the credit percentage for that taxable year. The credit amount shall be determined by multiplying the amount that a claimant claimed under the credit under sub. (9) by the credit percentage, but shall be modified so that the certified amount in the budget stabilization fund greater than 8% of the estimated expenditures from the general fund during the fiscal year, as reported in the summary, as defined in s. 16.518 (1), is expended as fully as possible and that the credit amount for each claimant is rounded down to the nearest whole dollar amount.

(d) *Certification of amounts claimed.* No later than August 15 of the year following the year in which the department determines a credit amount under par. (c) 3., the department shall determine the amount of revenue lost because of credits claimed in the taxable year to which that credit amount relates. The amount of revenue lost shall be certified to the secretary of administration.

(e) *Limitations and conditions.* 1. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

2. Part-year residents and nonresidents of this state are not eligible for the credit under this subsection.

(f) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 8. 71.10 (4) (d) of the statutes is created to read:

BILL**SECTION 8**

71.10 (4) (dt) Budget stabilization fund tax credit under s. 71.07 (7m).

SECTION 9. Initial applicability.

(1) BUDGET STABILIZATION FUND TAX CREDIT. The treatment of sections 71.07 (7m) and 71.10 (4) (dt) of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment of sections 71.07 (7m) and 71.10 (4) (dt) of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)